Assessment Year 1990-91

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

I.T.A No. 452 of 2001
Old No. 322/2000

The Commissioner of Income Tax
Meerut & another … Appellants

Versus

Saipem SPA as agent of Mr. Eleuterio Sabatino,
Arthur Andersen & Company, Bombay. …
Respondent

Mr. S.K. Posti, learned counsel for theTax Deptt.
Mr. J.P. Joshi, learned counsel for the respondent.

Hon'ble M.M. Ghildiyal, J.
Hon'ble Rajesh Tandon, J.

Heard learned counsel for the appellants.

By means of this appeal following questions of law are raised for consideration of this Court:-

1- Whether on the facts and circumstances of the case, the Ld. ITAT was legally justified in holding that free boarding and lodging facilities provided by the employer on board to rig in high seas cannot be construed to be perquisite?

2- Whether on the facts and circumstances of the case, the Ld. ITAT was legally justified in holding that interest u/s 234-B of the I.T. Act cannot be charged since the entire income of the assessee was subject to T.D.S. whereas this interest is chargeable on assessed tax as defined by Explanation I below section 234-B?

Counsel for the appellant has submitted that the controversy raised in this appeal is squarely covered by the decision of the Division Bench of this Court in Commissioner of Income Tax and Another v. Sedco Forex International Drilling Co.Ltd. decided on Oct. 9, 2003, reported in ITA Vol. 264 page 321 and the appeal may be decided in terms of the aforesaid decision of the Division Bench of this Court.

Keeping in view of the aforesaid facts, the appeal is decided in terms of the decision of the Division Bench of this Court in Commissioner of Income Tax and Another v. Sedco Forex

International Drlling Co.Ltd. decided on Oct. 9 2003, reported in ITA Vol. 264 page 321. Accordingly, both the questions of law raised through this appeal are decided in favour of the asseessee and against the Department. No. Order as to costs.

(Rajesh Tandon, J.) **(M.M. Ghildiyal, J.)**

June 24, 2004.
N.C.M.